

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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TONY MENDIOLA and DZENANA  
MENDIOLA,

Plaintiffs,

v.

MORTGAGE ELECTRONIC  
REGISTRATION SYSTEMS, INC.,  
FREEMONT HOME LOANS INC.;  
RECONSTRUCT CO.; FREEMONT  
INVESTMENT & LOAN; HSBC BANK  
USA NA as Trustee for the asset backed pass  
through certificates equity Loan Trust series  
2006 FM-2; et al.,

Defendants.

2:08-CV-001138-LRH-RJJ

ORDER

Before the court are three motions. The first motion is Defendants Mortgage Electronic Registration Systems, Inc. and Reconstruct Co.'s Motion to Dismiss (#5<sup>1</sup>). The second motion is Defendant Fremont Reorganizing Corporation f/k/a Fremont Investment & Loan's Motion to Dismiss (#8). The third motion is Defendants Mortgage Electronic Registration Systems, Inc. and Reconstruct Co.'s Request for Status Conference (#19). Defendant Fremont Reorganizing

<sup>1</sup>Refers to the court's docket entry number

1 Corporation have joined in the request for a status conference (#20).<sup>2</sup> On September 8, 2008, this  
2 court issued a *Klingele* Order notifying Plaintiffs that pursuant to Local Rule 7-2(d), failure to  
3 respond to any motion constitutes consent to the granting of the motion. Seven months have now  
4 elapsed without any response from Plaintiffs in opposition to the motions to dismiss. Pursuant to  
5 Local Rule 7-2(d), Defendants' motions to dismiss are therefore granted.

6 IT IS THEREFORE ORDERED that Defendants Mortgage Electronic Registration  
7 Systems, Inc. and Reconstruct Co.'s Motion to Dismiss (#5) is GRANTED without prejudice.

8 IT IS FURTHER ORDERED that Defendant Fremont Reorganizing Corporation's Motion  
9 to Dismiss (#8) is GRANTED without prejudice.

10 IT IS FURTHER ORDERED that Plaintiff shall have 30 days from the date of entry of this  
11 order to file an amended complaint to state a claim against Defendant Mortgage Electronic  
12 Registration Systems, Inc., Defendant Reconstruct Co., and Defendant Fremont Reorganizing  
13 Corporation. In the event Plaintiffs fail to do so, the clerk of court is directed to enter judgment in  
14 favor of Defendant Mortgage Electronic Registration Systems, Inc., Defendant Reconstruct Co.,  
15 and Defendant Fremont Reorganizing Corporation pursuant to Federal Rule of Civil Procedure  
16 54(b). Final judgment in favor of these defendants is warranted, as there is no just reason for delay  
17 in light of Plaintiffs' continued failure to respond to any of the defendants' motions.

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25 <sup>2</sup>Defendants Freemont Home Loans Inc. and HSBC Bank USA NA did not join any of the present  
26 motions.

1 IT IS FURTHER ORDERED that Defendants Mortgage Electronic Registration Systems,  
2 Inc. and Reconstruct Co.'s request for a status conference (#19) is DENIED, as a status conference  
3 is unnecessary at this juncture.

4 IT IS SO ORDERED.

5 DATED this 22<sup>nd</sup> day of April, 2009.



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LARRY R. HICKS  
UNITED STATES DISTRICT JUDGE